

## EXHIBIT B



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### European Patent Office

Branch at  
The Hague  
Search  
division

### Office européen des brevets

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Anmeldung Nr./Application No./Demande n°/Patent Nr./Patent No./Brevet n°.

02250442.7-2318-

Anmelder/Applicant/Demandeur/Patentinhaber/Propriétaire/Titulaire

DEPUY ORTHOPAEDICS, INC.

## COMMUNICATION

The European Patent Office herewith transmits as an enclosure the European search report for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

☐ Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

The following specifications given by the applicant have been approved by the Search Division:

☒ abstract

☒ title

☐ The abstract was modified by the Search Division and the definitive text is attached to this communication.

The following figure will be published together with the abstract: 14

## REFUND OF THE SEARCH FEE

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.



European Patent  
Office

## EUROPEAN SEARCH REPORT

Application Number  
EP 02 25 0442

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	US 5 885 297 A (MATSEN III FREDERICK A) 23 March 1999 (1999-03-23)	1-3, 5, 9, 10, 12	A61B17/15
Y	* column 2, line 42 - column 2, line 45; figure 6 *	4, 6, 7, 11, 13	
	* column 3, line 38 - column 3, line 40; figure 7 *		
	* column 6, line 25 - column 5, line 29 *		
Y	US 5 234 432 A (BROWN BYRON L) 10 August 1993 (1993-08-10)	4, 6, 7, 11, 13	A61B
	* column 5, line 32 - column 6, line 22; figures 1-3 *		
X	EP 0 460 886 A (SMITH & NEPHEW RICHARDS INC) 11 December 1991 (1991-12-11) * abstract; figure 1 *	1-3	
A	US 4 893 619 A (DALE JAMES L ET AL) 16 January 1990 (1990-01-16) * the whole document *	1	
The present search report has been drawn up for all claims			
Place of search MUNICH		Date of completion of the search 1 July 2003	Examiner HERBERHOLD, C
<p><b>CATEGORY OF CITED DOCUMENTS</b></p> <p>X : particularly relevant if taken alone  Y : particularly relevant if combined with another document of the same category  A : technological background  O : non-written disclosure  P : intermediate document</p> <p>T : theory or principle underlying the invention  E : earlier patent document, but published on, or after the filing date  D : document cited in the application  L : document cited for other reasons  &amp; : member of the same patent family, corresponding document</p>			

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EPO FORM 1503 (01.02.2001)

European Patent  
OfficeLACK OF UNITY OF INVENTION  
SHEET BApplication Number  
EP 02 25 0442

The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

## 1. Claims: 1-8

An apparatus for guiding a cutting tool during resection of greater tubercle from a humerus comprising

a tool guide member  
and a positioning member.

## 2. Claims: 9-13

A surgical assembly for resecting a greater tubercle from a humerus comprising

a tool guide member  
and a cutting tool

As claim 1 is not new there is no common inventive concept linking the two independent claims. Thus the criterion of unity is not fulfilled (Art. 82 EPC and guidelines for examination part C, III, 7)



European Patent  
Office

Application Number

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### CLAIMS INCURRING FEES

The present European patent application comprised at the time of filing more than ten claims.

- ☐ Only part of the claims have been paid within the prescribed time limit. The present European search report has been drawn up for the first ten claims and for those claims for which claims fees have been paid, namely claim(s):
- ☐ No claims fees have been paid within the prescribed time limit. The present European search report has been drawn up for the first ten claims.

### LACK OF UNITY OF INVENTION

The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

see sheet B

- ☐ All further search fees have been paid within the fixed time limit. The present European search report has been drawn up for all claims.
- ☒ As all searchable claims could be searched without effort justifying an additional fee, the Search Division did not invite payment of any additional fee.
- ☐ Only part of the further search fees have been paid within the fixed time limit. The present European search report has been drawn up for those parts of the European patent application which relate to the inventions in respect of which search fees have been paid, namely claims:
- ☐ None of the further search fees have been paid within the fixed time limit. The present European search report has been drawn up for those parts of the European patent application which relate to the invention first mentioned in the claims, namely claims:

**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

EP 02 25 0442

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

01-07-2003

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
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